

1 SB539
2 110368-1
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 31-MAR-09

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8 SYNOPSIS: This bill would authorize the incorporation
9 of development authorities for the purpose of
10 developing real and personal property of closed
11 federal military installations in Alabama.

12 This bill would provide for the filing of
13 articles of incorporation to establish an
14 authority. This bill would also provide for the
15 filing of amended articles of incorporation of an
16 authority.

17 This bill would provide for an authority's
18 membership, powers, and duties. This bill would
19 make legislative findings regarding the development
20 of property of a closed federal military
21 installation.

22 This bill would provide for the operational
23 area of an authority formed in accordance with this
24 act. This bill would provide for a board of
25 directors appointed by the Governor, the governing
26 body of the county of incorporation, and the
27 governing bodies of each municipality whose

1 corporate limits lie in whole or in part within the
2 operational area of the public corporation to
3 manage the affairs and property of an authority.

4 This bill would authorize an authority to
5 develop, sell, lease, convey, and otherwise dispose
6 of property in the possession of the authority.

7 This bill would authorize an authority to perform
8 and contract for environmental remediation.

9 This bill would authorize an authority to
10 issue bonds.

11 This bill would limit the liability of an
12 authority, its officers, employees, and agents from
13 liability for certain acts.

14 This bill would exempt certain sales of
15 property, that formerly comprised a military
16 installation or part of a military installation,
17 from state public lands sales requirements.

18 This bill would provide that the authority,
19 by resolution legally adopted to conform to rules
20 prescribed by the Board of Control of the State of
21 Alabama Employees' Retirement System, may elect to
22 have its officers and employees become eligible to
23 participate in the State of Alabama Employees'
24 Retirement System.

25 This bill would create an oversight
26 committee over an authority composed of all members
27 of the legislative delegation from the county of

1 incorporation, as well as the members of the
2 governing bodies of any municipality whose
3 corporate limits lie in whole or in part within the
4 operational area of the authority.

5 This bill would exempt an authority from
6 certain laws related to usury and interest rates.

7 This bill would provide an exemption from
8 certain taxes to an authority.

9 This bill would provide that an authority is
10 subject to the state's competitive bid and public
11 works bid laws, and that an authority's board
12 members and employees shall comply with the Alabama
13 ethics laws.

14 This bill would provide that an authority is
15 subject to the state open meetings and public
16 records requirements and would require an annual
17 audit of the authority by a CPA.

18 This bill would provide for the dissolution
19 of an authority and disbursement of its assets upon
20 dissolution.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 To authorize the incorporation of development
27 authorities for the purpose of developing real and personal

1 property of closed federal military installations in Alabama;
2 to define certain terms; to make legislative findings; to
3 provide for the procedure for incorporating an authority; to
4 provide for the filing of articles of incorporation and
5 amended articles of incorporation of an authority; to provide
6 for the qualifications, appointments, and terms of the board
7 of an authority; to provide for the purposes, powers, and
8 duties of an authority; to provide for the operational area of
9 an authority; to authorize an authority to issue bonds; to
10 limit the liability of an authority and provide immunity to
11 the board and employees of an authority for certain acts; to
12 provide that an authority is subject to the state's
13 competitive bid and public works bid laws, and that an
14 authority's board members and employees shall comply with the
15 Alabama ethics laws; to provide that an authority, by
16 resolution legally adopted to conform to rules prescribed by
17 the Board of Control of the State of Alabama Employees'
18 Retirement System, may elect to have its officers and
19 employees become eligible to participate in the State of
20 Alabama Employees' Retirement System; to provide for an
21 oversight committee of an authority; to exempt an authority
22 from certain taxes and from usury and interest laws; to
23 provide for an exemption from certain public lands sales
24 requirements; to provide that an authority is subject to the
25 state open meetings and public records laws; and to provide
26 for the dissolution of an authority and disbursement of its
27 assets upon dissolution.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. When used in this act, the following
3 words and terms shall have the following meanings,
4 respectively, unless the context clearly indicates otherwise:

5 (1) ARTICLES. The articles of incorporation of an
6 authority.

7 (2) AUTHORITY. A public corporation incorporated
8 pursuant to the provisions of this act.

9 (3) BOARD. The board of directors of an authority.

10 (4) BOND or BONDS. A bond or bonds issued under the
11 provisions of this act.

12 (5) COUNTY OF INCORPORATION. The county in which an
13 authority has been or is proposed to be incorporated.

14 (6) DIRECTORS. The members of the board of
15 directors.

16 (7) INCORPORATORS. The natural persons filing a
17 written application for the incorporation of an authority
18 pursuant to this act.

19 (8) MILITARY INSTALLATION. A federal military fort,
20 base, camp, post, station, yard, depot, arsenal, armory, or
21 installation.

22 (9) OPERATIONAL AREA. The parcels of realty within a
23 county, previously conveyed to the United States of America,
24 which formerly comprised a military installation, and all
25 property in adjacent areas of close proximity to the military
26 installation within the corporate limits of any municipality
27 whose corporate limits lie in whole or in part within the

1 operational area of the authority that is necessary or
2 convenient to carry out the purposes of the authority.

3 (10) PERSON. Unless limited to a natural person by
4 the context in which it is used, any person, including,
5 without limitation, a private firm, a private association, a
6 corporation, and a public person.

7 (11) JUDGE OF PROBATE. The judge of probate of the
8 county of incorporation of an authority.

9 (12) PROJECT. Any land and any buildings or other
10 improvements thereon, and all real, personal, and mixed
11 properties, within the operational area of an authority,
12 deemed by an authority to be necessary or appropriate in
13 connection therewith, whether or not now in existence, and
14 which shall be suitable for the promotion of the purposes of
15 the authority.

16 (13) PUBLIC PERSON. The state and any county, city,
17 town, public corporation, agency, subdivision thereof,
18 instrumentality thereof, or similar person.

19 (14) PURPOSE. The authorized purposes of an
20 authority, which include acquiring, holding, improving,
21 installing, constructing, owning, leasing, developing,
22 performing environmental restoration and remediation, selling
23 and otherwise disposing of the real and personal property
24 within its operational area for any use, subject to
25 governmental land use restrictions or authority. Permissible
26 uses of the property shall include, without limitation,
27 industrial, commercial, business, office, parking,

1 educational, cultural, artistic, retail, research and
2 development, recreational, and residential uses and may
3 include the construction of homes, apartments, town houses,
4 condominiums, hotels, and motels, and other structures, which
5 the authority deems appropriate for promoting industry, trade,
6 and economic development within the operational area and the
7 State of Alabama.

8 (15) STATE. The State of Alabama.

9 Section 2. The Legislature makes the following
10 findings:

11 (1) That the economic development of property
12 comprising a former military installation is of vital
13 importance to the life, health, and welfare of the citizens of
14 local cities and counties affected by the base closure and the
15 State of Alabama.

16 (2) That it is desirable to allow for the
17 establishment of local reuse authorities capable of managing
18 and promoting the reuse and economic development of military
19 installations after the closure of the military installations.

20 (3) That an Alabama court has ruled that a city and
21 county lack legislative authority to join in any entity for
22 the purposes provided for in this act. The Legislature finds
23 that the purpose of this act is to provide such authority.

24 (4) That in consideration of the critical need for
25 valid and fully authorized public entities, with community
26 involvement and notice, to develop closed military
27 installations, and perform environmental restoration and

1 remediation activities under existing and future agreements,
2 contracts, and orders, and the need for a local reuse
3 authority or successor to any entity or group previously
4 acting as a local reuse authority at a closed military
5 installation, the Legislature has authorized the creation of
6 public corporations empowered to assist counties and cities to
7 develop former military installations for the purpose of
8 promoting industry, trade, and economic development.

9 (5) That the Legislature intends that this act be
10 liberally construed to promote the purposes of an authority.

11 Section 3. Any number of natural persons, not less
12 than three, each residing in the county of incorporation or a
13 municipality whose corporate limits lie in whole or in part
14 within the operational area of the proposed authority, may
15 incorporate an authority as provided in this act. To do so,
16 the incorporators shall first file a written application in
17 accordance with Section 4.

18 Section 4. (a) The written application of the
19 incorporators shall be filed with the judge of probate, which
20 application shall:

21 (1) Contain a statement that the incorporators
22 propose to incorporate an authority pursuant to the provisions
23 of this act;

24 (2) State the operational area of the proposed
25 authority;

26 (3) State that each of the incorporators is a
27 resident of the county of incorporation or a municipality

1 whose corporate limits lie in whole or in part within the
2 operational area of the proposed authority;

3 (4) Request that the governing body of the county of
4 incorporation adopt a resolution declaring that it is
5 expedient that the proposed authority be formed, approving the
6 written application, and authorizing the incorporators to
7 proceed to form the proposed authority by filing for record
8 articles in accordance with the provisions of this act; and

9 (5) Request that the governing body of each
10 municipality whose corporate limits lie in whole or in part
11 within the operational area of the proposed authority adopt a
12 resolution declaring that it is expedient that the proposed
13 authority be formed, approving the written application, and
14 authorizing the incorporators to proceed to form the proposed
15 authority by filing for record articles in accordance with the
16 provisions of this act.

17 (b) Such application shall be accompanied by the
18 form of articles of incorporation of the proposed authority.

19 (c) As promptly as may be practicable after the
20 filing of the application with the judge of probate, the
21 governing body of the county of incorporation and each
22 municipality whose corporate limits lie in whole or in part
23 within the operational area of the proposed authority shall
24 review the contents of the application and the accompanying
25 form of articles and shall adopt a resolution either:

26 (1) Denying the application, or

1 (2) Declaring that it is expedient that the proposed
2 authority be formed, approving the form of its articles, and
3 authorizing the incorporators to proceed to form the proposed
4 authority by filing for record articles in accordance with
5 this act.

6 (d) It shall not be necessary that any such
7 resolution be published in any newspaper or posted or be
8 offered for more than one reading.

9 (e) The failure of the governing body of the county
10 of incorporation or any municipality whose corporate limits
11 lie in whole or in part within the operational area of a
12 proposed authority to approve the written application of the
13 incorporators shall invalidate the application to incorporate
14 an authority, and the resolution denying the application of
15 the incorporators shall be filed with the judge of probate of
16 the county where the application of the incorporators was
17 filed.

18 Section 5. (a) The articles of incorporation of an
19 authority shall state all of the following:

20 (1) The names of the incorporators of the authority
21 and that each of them is a resident of the county of
22 incorporation or a municipality whose corporate limits lie in
23 whole or in part within the operational area of the authority.

24 (2) The name of the authority, which may be a name
25 indicating in a general way the name of the former military
26 installation or a geographically descriptive word or words,
27 and shall include the words "Development Authority" (e.g.,

1 "The _____ Development Authority" or "The Development
2 Authority of _____," the blank space to be filled in with a
3 name indicating in a general way the name of the former
4 military installation or geographically descriptive word or
5 words, but the descriptive word or words shall not preclude
6 the authority from exercising its powers in its operational
7 area).

8 (3) A designation of the operational area of the
9 authority, including the name or names of each municipality
10 whose corporate limits include the operational area of the
11 authority.

12 (4) The period of the authority, which may be
13 perpetual.

14 (5) The location of the principal office of the
15 authority, which shall be within the boundaries of the
16 operational area of the authority.

17 (6) That the authority is organized pursuant to this
18 act.

19 (7) If the exercise by the authority of any of its
20 powers hereunder is to be in any way prohibited, limited, or
21 conditioned, a statement of the terms of the prohibition,
22 limitation, or condition.

23 (8) The number of initial directors appointed in
24 accordance with this act and the duration of their respective
25 terms of office.

26 (9) A plan of distribution of all remaining assets,
27 properties, debts, and obligations of the authority upon

1 dissolution of the authority and any provisions not
2 inconsistent with this act relating to the dissolution of the
3 authority.

4 (10) Any other matters relating to the authority
5 that the incorporators may choose to insert and that are not
6 inconsistent with this act or with the laws of the State of
7 Alabama.

8 (b) The articles shall be signed by each of the
9 incorporators.

10 Section 6. (a) The articles shall be filed with the
11 judge of probate. The acceptance of such articles for filing
12 by the judge of probate shall be conclusive of the due, legal
13 and valid incorporation of the authority.

14 (b) There shall be no fees or taxes paid to or
15 collected by the judge of probate for any service rendered or
16 work performed in connection with an authority, its
17 incorporation, amendment, dissolution, or records.

18 Section 7. (a) The authority shall operate under the
19 direction of a board of directors which shall consist of
20 voting members selected as follows:

21 (1) One member appointed by the Governor.

22 (2) Five members appointed by the governing body of
23 each municipality whose corporate limits lie in whole or in
24 part within the operational area of the authority.

25 (3) Five members appointed by the governing body of
26 the county of incorporation.

1 (b) A vacancy occurring on the board for any reason
2 shall be filled within 30 days of the vacancy by the
3 appointing authority making the initial appointment. If the
4 appointing authority that made the initial appointment does
5 not fill the vacancy within 30 days, the remaining appointing
6 authorities shall make the appointment.

7 (c) Initial appointments to the board shall be made
8 within 30 days following the effective date of the
9 incorporation. The Governor's initial appointee shall serve a
10 three-year term. Each governing body of a municipality shall
11 designate two of its initial appointees to serve three-year
12 terms, two of its initial appointees to serve two-year terms,
13 and one initial appointee to serve a one-year term. The
14 governing body of the county of incorporation shall designate
15 two of its initial appointees to serve three-year terms, two
16 initial appointees to serve two-year terms, and one initial
17 appointee to serve a one-year term. Thereafter, each successor
18 board member shall serve a term of three years. Each board
19 member shall serve until a successor is appointed, qualified,
20 and assumes office, or until the board member ceases to serve
21 as a director pursuant to subsection (h). All successor
22 appointments shall be made by the appointing authority
23 entitled to make the initial appointment. A board member may
24 be reappointed at the end of his or her term.

25 (d) Each director shall fulfill all of the following
26 requirements:

1 (1) Reside within the county of incorporation or
2 within the corporate limits of any municipality whose
3 corporate limits lie in whole or in part within the county of
4 incorporation.

5 (2) Not hold any elective office.

6 (3) Be a duly qualified elector of the county of
7 incorporation or the municipality in which he or she resides.

8 (e) The first organizational meeting of the board
9 shall be held within 14 days following the initial appointment
10 of all of the directors. At the organizational meeting, the
11 board shall elect officers from among its members, including a
12 chair, vice chair, treasurer, secretary, and such other
13 officers as the board deems necessary or desirable. The board
14 may prescribe in its bylaws the terms, powers, and duties of
15 the officers. At the initial meeting the board shall determine
16 its meeting schedule. Board members shall serve without
17 compensation and shall be entitled to expense reimbursement
18 only upon prior approval of a majority of the board. The board
19 may approve reimbursement only of the actual, reasonable, and
20 necessary expenses incurred in the performance of duties.

21 (f) A majority of the members of the board shall
22 constitute a quorum for the transaction of business. The
23 members may act only upon a majority vote of the members
24 making up the quorum. If a quorum is present when a meeting is
25 convened and the subsequent withdrawal of members during the
26 meeting leaves less than a quorum, the remaining members
27 present may not take action except to continue the meeting for

1 the purpose of engaging in debate and discussion and to
2 adjourn the meeting by a vote of the majority of the remaining
3 members present.

4 (g) The board or any committee thereof may meet by
5 telephone conference or other electronic means to the extent
6 allowed by law and the bylaws of the authority.

7 (h) A member of the board shall cease to be a member
8 immediately upon the occurrence of any of the following:

9 (1) If, for any reason, other than an illness which
10 is documented in writing to the authority by a physician, the
11 board member is absent for more than 25 percent of the
12 scheduled board meetings in any consecutive 12-month period.
13 The board member shall cease to be a member on the last day of
14 the month following the month in which he or she missed more
15 than 25 percent of the scheduled board meetings, except for
16 illness as described above.

17 (2) The board member is found guilty by a court of
18 competent jurisdiction of willful or wanton misconduct or
19 fraud in connection with the discharge of his or her duties,
20 intentional civil or criminal fraud, or the board member is
21 convicted of a felony.

22 (3) The board member ceases to reside within the
23 county of incorporation or within the corporate limits of any
24 municipality whose corporate limits lie in whole or in part
25 within the county of incorporation.

26 (4) The board member is elected to any public
27 office.

1 (5) The board member ceases to be a qualified
2 elector of the county of incorporation or the municipality in
3 which he or she resides on the date of the appointment.

4 (i) Any vacancy on the board occurring pursuant to
5 subsection (h) of this section shall be filled as provided in
6 subsection (b).

7 Section 8. (a) The articles of an authority may at
8 any time and from time to time be amended in the manner
9 provided in this section. The board of directors shall first
10 adopt a resolution proposing an amendment to the articles,
11 which amendment shall be set forth in full in the resolution
12 and which may include any matters that might have been
13 included in the original articles.

14 (b) After the adoption by the board of directors of
15 a resolution proposing an amendment to the articles, the chair
16 and the secretary of the authority shall sign and file with
17 the governing bodies of the county of incorporation, and each
18 municipality whose corporate limits include in whole or in
19 part within the operational area of the authority, a written
20 application in the name and on behalf of the authority, under
21 its seal, requesting that such governing body or bodies adopt
22 a resolution approving the proposed amendment, and accompanied
23 by a copy of the resolution adopted by the board of directors
24 proposing the amendment to the articles. As promptly as may be
25 practicable after the filing of the application, the governing
26 body or bodies shall review the application and shall adopt a
27 resolution either denying the application or approving and

1 authorizing the proposed amendment. Such resolution need not
2 be published or posted and need not be offered for more than
3 one reading.

4 (c) Following the adoption of a resolution approving
5 the proposed amendment by the governing body or bodies with
6 which an application was filed pursuant to this section, the
7 chair and the secretary of the authority shall sign and file
8 for record in the office of the judge of probate of the county
9 of incorporation a certificate in the name and on behalf of
10 the authority, under its seal, reciting the adoption of
11 resolutions by the board and by the governing body or bodies
12 setting forth the proposed amendment. The judge of probate
13 shall thereupon record the certificate in an appropriate book
14 in his or her office. When the certificate has been so filed
15 and recorded, the amendment shall become effective, and the
16 articles shall thereupon be amended to the extent provided in
17 the amendment.

18 (d) The failure of the governing body of the county
19 of incorporation or any municipality whose corporate limits
20 lie in whole or in part within the operational area of the
21 authority receiving an application filed pursuant to this
22 section to approve an application made pursuant to this
23 section shall invalidate such application.

24 Section 9. All board members, officers, and
25 employees of an authority shall be subject to and comply with
26 the ethics laws of the State of Alabama. The board may adopt
27 additional, more stringent, ethics policies and procedures for

1 defining and addressing possible and actual conflicts of
2 interest among the organization and its board members,
3 officers, and employees with respect to transactions in which
4 an authority is or may be interested.

5 Section 10. An authority shall have the following
6 powers and duties together with all powers and duties
7 incidental thereto or necessary to the discharge thereof:

8 (1) To sue or be sued and to prosecute and defend in
9 any court of competent jurisdiction.

10 (2) To adopt and to use a corporate seal and to
11 alter the seal at pleasure.

12 (3) To adopt and alter bylaws for the regulation and
13 conduct of its affairs and business.

14 (4) With respect to property within the operational
15 area of the authority, to acquire, receive, and take title to
16 by purchase, gift, lease, devise, or otherwise, to hold, keep,
17 improve, maintain, and impose restrictive covenants and land
18 use controls, to engage in environmental remediation and
19 restoration efforts as required under applicable agreements
20 with the U.S. Department of Defense, to equip, furnish,
21 develop, and to transfer, convey, donate, sell, lease, grant
22 options to, assign, encumber with easements and mortgages and
23 other security agreements, or otherwise convey or dispose of
24 property of every kind and character, real, personal, mixed,
25 tangible, and intangible, and any interest therein, to any
26 person, with the authority receiving adequate consideration,
27 as solely determined by the authority upon the authority's

1 consideration of tangible and intangible factors in
2 determining if adequate consideration is to be received by the
3 authority.

4 (5) To make, enter into, and execute such contracts,
5 agreements, cooperative agreements, leases, loan agreements,
6 orders, mortgages, deeds, and other legal arrangements and to
7 take such actions as may be necessary or convenient in the
8 furtherance of any purpose of the authority or in the exercise
9 of any power granted to it. Neither the county of
10 incorporation nor any municipality whose corporate limits lie
11 in whole or in part within the operational area of the
12 authority, nor any member of the governing body of or any
13 officer of the county of incorporation or such municipalities,
14 shall be liable for the repayment of any indebtedness of the
15 authority incurred pursuant to this subdivision.

16 (6) To borrow money for any authority purpose,
17 function, or use and to issue in evidence of the borrowing,
18 bonds, notes, warrants, or other debt obligations, hereinafter
19 referred to in this act as bonds, including, without
20 limitation, refunding bonds.

21 (7) To pledge for the payment of any bonds issued or
22 obligations assumed by the authority any revenues from which
23 those bonds or obligations are made payable and to execute and
24 deliver security for the bonds and obligations, mortgages,
25 deeds of trust, trust indentures, and pledge indentures as
26 provided for by law.

1 (8) To provide for such insurance as the authority
2 may deem advisable.

3 (9) To invest any of its funds deemed by the
4 authority not to be needed presently in the operation of its
5 properties and undertakings in bonds, bills, notes, or other
6 obligations of the United States of America or any agency
7 thereof, bonds of the state, bonds of any county or
8 municipality within the state, interest-bearing deposits in
9 banks and savings and loan institutions, any obligations in
10 which a state chartered savings and loan association may
11 invest its funds, any agreement to repurchase any of the
12 foregoing, or any combination thereof.

13 (10) To contract, cooperate, or both, with the
14 United States of America or any agency or instrumentality
15 thereof, or any state and any agency, instrumentality, or
16 political subdivision thereof, or any other authority or
17 authorities.

18 (11) To accept gifts, grants, bequests, or devises
19 of money and tangible and intangible property consistent with
20 the purposes and powers of the authority.

21 (12) To convey property for public purposes
22 including, but not limited to, recreational, artistic, and
23 cultural endeavors, with or without consideration, to the
24 State of Alabama and its agencies and instrumentalities, the
25 United States of America and its agencies and
26 instrumentalities, the county of incorporation, municipalities
27 whose corporate limits lie in whole or in part within the

1 operational area, or other public corporations, or their
2 successors, and to dedicate roadways, parks, easements, and
3 other public facilities.

4 (13) To apply for and accept from any federal,
5 state, county, or municipal government or agency or any other
6 public or private source, loans, grants, guarantees, or other
7 financial assistance in furtherance of the authority's
8 purposes under such conditions as may be provided by the
9 source.

10 (14) To enter into agreements with the federal
11 government or any agency thereof to use its facilities or its
12 services in order to carry out the public purposes of the
13 authority.

14 (15) To contract with the State of Alabama, its
15 agencies or institutions, or any county or local government
16 for the use by the authority of any facilities or services or
17 to contract or to provide any facilities or services to the
18 state, its agencies or institutions, or any county or local
19 government entity.

20 (16) To extend credit or make loans to any person,
21 corporation, partnership, or other entity for all or part of
22 the costs of any project which substantially advances or
23 enhances the development and reuse of the former military
24 installation property. The credit or loans extended may be
25 secured by a loan agreement, note, mortgage, deed to secure
26 debt, trust deed, security agreement, assignment, or other
27 instrument, or by a rental, or by revenues, fees, or charges,

1 upon such terms and conditions as the authority shall
2 determine to be reasonable. The agreement may include a
3 provision for the establishment and maintenance of reserve
4 funds. In the exercise of powers granted herein, the authority
5 may include in any such loan agreement, note, mortgage, deed
6 to secure debt, trust deed, security agreement, assignment, or
7 other instrument requirements for guaranty of any obligations,
8 insurance, construction, use, operation, maintenance, and
9 financing of the project, and such other terms and conditions
10 as the authority may deem necessary or desirable.

11 (17) To appoint, employ, contract with, and
12 compensate such employees, agents, engineers, auditors,
13 attorneys, underwriters, issuers of letters of credit,
14 depositories, banks, trustees, remarketing agents, rating
15 agencies, insurers, and guarantors of its debt obligations,
16 providers of other forms of credit enhancement for its debt
17 obligations, contractors, consultants, and fiscal advisors, as
18 the board shall deem necessary for the conduct of the business
19 of the authority.

20 (18) To make or contract for long-range plans or
21 proposals for economic development or environmental
22 restoration.

23 (19) To make surveys and other economic analyses.

24 (20) To plan, undertake, and complete environmental
25 restoration and to engage in environmental remediation of
26 property.

27 (21) To grant and receive indemnities.

1 (22) To require by lease, contract, or agreement the
2 payment of fees in lieu of ad valorem taxes designated for
3 educational and other purposes to be levied by the county of
4 incorporation and municipalities whose corporate limits lie in
5 whole or in part within the operational area, for distribution
6 to such public persons, respectively, as if these payments are
7 ad valorem taxes.

8 (23) To exercise any power granted by the laws of
9 this state to a public or private corporation which is not in
10 conflict with the purposes of the authority.

11 (24) To do all things necessary or convenient to
12 carry out the purposes and powers conferred by this act.

13 Section 11. An authority shall hire an independent
14 certified public accounting firm to examine its books and
15 records and render a written audit report annually.

16 Section 12. (a) Bonds of an authority shall be
17 signed by the chair or vice chair and attested to by the
18 secretary or assistant secretary. The seal of an authority
19 shall be affixed thereto. A facsimile of the signature of the
20 officers may be printed or otherwise reproduced on any such
21 bonds in lieu of being manually subscribed thereon, and a
22 facsimile of the seal of an authority may be printed or
23 otherwise produced on any such bonds in lieu of being manually
24 affixed thereto, provided that the bonds have been manually
25 authenticated by a transfer agent of the bonds issued.
26 Delivery of the bonds so executed shall be valid

1 notwithstanding any subsequent changes in officers or in the
2 seal of an authority.

3 (b) Bonds may be executed and delivered by an
4 authority at any time. The bonds shall be in such form and
5 denominations and of such tenor and maturities, shall bear
6 such rate or rates of interest or no interest, shall be
7 payable at such times, and shall be payable and secured by
8 such revenues, funds, assets, pledges, agreements, or other
9 property, and evidenced in such manner, and may contain such
10 other provisions not inconsistent with this act as may be
11 provided by resolution of the board. The bonds may bear
12 interest at a fixed or variable rate. An authority may issue
13 tender bonds or similar bonds and enter into appropriate
14 remarketing agreements with respect to any of its bonds and
15 the determination of the rate of interest borne by the bonds.
16 The bonds of an authority may be sold at either public or
17 private sale in the manner, at the price, and at the time as
18 determined by the board to be most advantageous.

19 (c) The proceeds from the sale of any bonds shall be
20 applied as provided in the proceedings of an authority or
21 agreement authorizing the bonds to be issued, including,
22 without limitation, the payment of all legal, fiscal,
23 recording, and other fees and expenses incurred in connection
24 with the authorization, sale, and issuance of the bonds and,
25 if provided in the proceedings or agreement, interest on the
26 bonds. An authority may provide for the funding of a debt
27 service reserve, a replacement and reserve, or both, and for

1 letters of credit, bond insurance, guaranties, and other forms
2 of credit enhancement from the proceeds of its bonds or from
3 other funds.

4 (d) The bonds shall be legal investments for funds
5 of the Teachers' Retirement System of Alabama, the Employees'
6 Retirement System of Alabama, and the State Insurance Fund.

7 (e) Public persons other than members of an
8 authority or its appointing bodies may invest in any bond
9 issued by the authority.

10 (f) Upon the adoption by the board of any resolution
11 providing for the issuance of bonds, the board shall cause to
12 be published once a week for two consecutive weeks in a
13 newspaper of general circulation published in the county of
14 incorporation a notice in substantially the following form at
15 the end of which shall be printed the name and title of the
16 chair, vice chair, secretary, or assistant secretary of the
17 authority: "_____ Development Authority, a public
18 corporation under the laws of the State of Alabama, on the
19 _____ day of _____, authorized the issuance of not more
20 than \$ ____ principal amount of [insert the appropriate
21 designation describing the bonds, notes, warrants, or other
22 debt obligations] of the authority for purposes authorized in
23 the act of the Legislature of Alabama under which the
24 authority was organized. Any action or proceeding questioning
25 the validity of the bonds, any pledge or mortgage to secure
26 the same, any lease or sale of any project to be financed by
27 the bonds, or the proceedings authorizing the same must be

1 commenced within 20 days after the first publication of this
2 notice." Any action in any court to set aside or question the
3 issuance of the bonds notice, or to contest the validity of
4 the bonds or of any pledge or mortgage made therefor or of any
5 lease or sale of any project to be financed by the bonds must
6 be commenced within 20 days after the first publication of the
7 notice. After the expiration of the 20 days, no cause of
8 action, counterclaim, setoff, or defense questioning the
9 validity of the bonds, or of the pledge, mortgage, lease, or
10 sale of the project to be financed by the bonds shall be
11 asserted, nor shall the validity of the bonds, or of the
12 pledge, mortgage, lease, or sale of the project to be financed
13 by the bonds be open to question in any court on any ground
14 whatsoever except in an action that was commenced within the
15 20-day period.

16 Section 13. Neither the county of incorporation nor
17 any municipality whose corporate limits lie in whole or in
18 part within the operational area of the authority, nor any
19 member or officer of the county of incorporation or any such
20 municipality, shall be liable for the payment of any
21 indebtedness of the authority or for the performance of any
22 pledge, mortgage, obligation, bond, or agreement of any kind
23 whatsoever which may be undertaken by the authority. No
24 indebtedness of an authority, pursuant to any of its
25 agreements or obligations shall be construed to constitute an
26 indebtedness of the county of incorporation or any
27 municipality within the meaning of any law whatsoever, unless

1 the county of incorporation or municipality shall expressly
2 obligate itself thereto.

3 Section 14. An authority shall not be liable for
4 damages for injury done to any person or corporation, unless
5 the injury was done due to the negligence of an agent,
6 officer, or employee of the authority while engaged in work
7 for the authority and while acting in the line and scope of
8 his or her duty, or unless the injury was done due to the
9 neglect, carelessness, or failure to remedy a defect in the
10 streets, alleys, drainage systems, or buildings of the
11 authority after the authority had been given notice of the
12 defect or after the defect had existed for such an
13 unreasonable length of time as to raise a presumption of
14 knowledge of the defect on the part of the authority. Whenever
15 an authority shall be made liable for damages by reason of the
16 unauthorized or wrongful acts or negligence or carelessness of
17 any person or corporation, then the person or corporation
18 shall be liable to an action on the same account by the party
19 so injured. No recovery may be had under any judgment, whether
20 direct or by way of indemnity or otherwise, arising out of a
21 single occurrence, against an authority, any officer,
22 employee, or agent thereof, in excess of a total of one
23 hundred thousand dollars (\$100,000) per injured person up to a
24 maximum of three hundred thousand dollars (\$300,000) per
25 single occurrence, any other law notwithstanding. In no event
26 shall an authority be liable for punitive damages.

1 Section 15. Members of the board of an authority
2 shall not be subject to civil liability arising from the
3 conduct of the affairs of an authority except when the act or
4 omission of the member of the board amounts to willful or
5 wanton misconduct, fraud, or gross negligence. An authority,
6 its board, agents, and employees shall be entitled to all
7 defenses available under the doctrines of substantive immunity
8 and discretionary function immunity. It is the intent of this
9 section to grant members of the board of an authority the full
10 immunity provided noncompensated officers by Section 10-11-3,
11 Code of Alabama 1975.

12 Section 16. No part of the net earnings of an
13 authority remaining after payment of its expenses shall inure
14 to the benefit of any private entity or person.

15 Section 17. An authority, by resolution legally
16 adopted to conform to rules prescribed by the Board of Control
17 of the State of Alabama Employees' Retirement System, may
18 elect to have its officers and employees become eligible to
19 participate in the State of Alabama Employees' Retirement
20 System.

21 Section 18. The affairs and operations of an
22 authority shall be supervised and monitored by an oversight
23 committee. The committee shall be composed of all the members
24 of the legislative delegation from the county of
25 incorporation, as well as the members of the governing bodies
26 of the county of incorporation and all municipalities whose
27 corporate limits lie in whole or in part within the

1 operational area of the authority. The chair of the oversight
2 committee shall be a member of the legislative delegation
3 elected by the oversight committee. The oversight committee
4 shall meet not less often than semiannually, and otherwise at
5 the call of its chair or a majority of its membership. The
6 approval of the oversight committee shall not be essential to
7 the validity of any action taken by the board of directors of
8 authority in the exercise of any of the powers granted an
9 authority in this act. The oversight committee shall be
10 dissolved upon the dissolution of the authority.

11 Section 19. All conveyances to and from any
12 predecessor entity of an authority, which entity has been or
13 is ruled invalid by any Alabama court, before the effective
14 date of this act, are approved, ratified, validated, and
15 confirmed, and shall be deemed fully effective for all
16 purposes according to the terms of the instruments of
17 conveyance. As of the effective date of this act, all real
18 property held of record in the name of any predecessor entity
19 of an authority, which has been or is ruled invalid by any
20 Alabama court, shall be transferred and conveyed to the
21 authority, if the authority's operational area includes the
22 location of the real property, and all personal property, both
23 tangible and intangible, if any, held in the name of such
24 predecessor entity shall likewise be transferred and conveyed
25 to the authority. All conveyances and transfers of property
26 pursuant to this section are subject to all terms, provisions,
27 and conditions in contracts, agreements, and instruments

1 applicable to the property, and concerning the property and
2 its use. All conveyances, transfers, instruments, and acts of
3 any successor to the predecessor entity of an authority,
4 pursuant to this section, are hereby approved, ratified,
5 validated, and confirmed.

6 Section 20. (a) If it is determined that it is not
7 possible for an authority to achieve all of the purposes for
8 which the authority was formed, the authority may be dissolved
9 by adoption by the board of a resolution that does all of the
10 following:

11 (1) Determines that it is not possible to achieve
12 all of the purposes for which the authority was formed.

13 (2) Determines that either all debts and obligations
14 of the authority have been fully paid or extinguished or that
15 adequate provision has been made for one or more successors to
16 accept or assume all remaining debts and obligations of the
17 authority, if any, pursuant to a plan of distribution provided
18 for in its articles of incorporation.

19 (3) Recommends its dissolution.

20 (b) If it is determined that an authority has
21 achieved all the purposes for which the authority was formed,
22 the authority shall be dissolved by adoption by the board of a
23 resolution that does all of the following:

24 (1) Determines that it has achieved all of the
25 purposes for which the authority was formed.

26 (2) Determines that either all debts and obligations
27 of the authority have been fully paid or extinguished or that

1 adequate provision has been made for one or more successors to
2 accept or assume all remaining debts and obligations of the
3 authority, if any, pursuant to a plan of distribution provided
4 for in its articles of incorporation.

5 (3) Recommends its dissolution.

6 (c) A dissolution under subsection (a) or (b) is
7 only effective upon approval by the county of incorporation
8 and all municipalities whose corporate limits lie in whole or
9 in part within the operational area of an authority.

10 (d) Upon receiving the necessary approvals from the
11 county of incorporation and all municipalities, the chair and
12 secretary of the authority shall execute a certificate of
13 dissolution reciting that resolutions have been adopted and
14 that the authority has been dissolved. The certificate of
15 dissolution shall be filed with the office of the judge of
16 probate, who shall record the certificate in an appropriate
17 book. In the event that the authority owns any assets or
18 property at the time of dissolution, whether voluntary or
19 involuntary, title to all its assets and property shall
20 thereupon vest as provided in the articles.

21 Section 21. An authority, including, without
22 limitation, its property, its income, the bonds and other
23 securities issued by the authority, the interest applicable
24 thereto, and the income therefrom, and all mortgages,
25 indentures, and other instruments executed as security
26 therefor, and all deeds and other documents delivered to or by
27 the authority shall be exempt from all state and local

1 taxation, except sales and use tax, but including, without
2 limitation, any license or excise taxes imposed on the
3 authority for the privilege of engaging in any of the
4 activities in which the authority may engage. An authority
5 shall not be obligated to pay any fees, taxes, or costs to the
6 judge of probate in connection with the recording or filing of
7 any deed or document. Except as provided in this section,
8 nothing in this act shall be construed to:

9 (1) Exempt any person, individual, corporation,
10 association, or entity from otherwise applicable state,
11 county, and municipal taxes, including, without limitation,
12 city and county ad valorem taxes and sales and use taxes.

13 (2) Limit or impair the taxing authority of the
14 State of Alabama, the county of incorporation, or any
15 municipality therein, including, without limitation, the
16 application of existing taxes such as city and county sales
17 and use taxes levied on retail sales within the authorized
18 operational area of the authority, or any taxes that may be
19 levied in the future.

20 Section 22. Subject to acceptance by an authority,
21 the county of incorporation and any municipality therein may
22 convey to an authority, with or without consideration, any
23 real, personal, mixed, tangible, or intangible property or
24 assets that comprised all or part of the property of a closed
25 military installation.

26 Section 23. An authority shall be exempt from all
27 general laws of the State of Alabama governing usury or

1 prescribing or limiting interest rates, including, without
2 limitation, Chapter 8 of Title 8 of the Code of Alabama 1975,
3 as amended or replaced.

4 Section 24. An authority and all contracts made by
5 it shall comply with Sections 41-16-50 to 41-16-63, inclusive,
6 Code of Alabama 1975, as amended or replaced, requiring
7 competitive bids in connection with certain contracts.

8 Section 25. Notwithstanding any provision of law to
9 the contrary, an authority shall not be subject to Article 3
10 of Chapter 15 of Title 9, Code of Alabama 1975, as amended or
11 replaced, regardless of the prior ownership of any property or
12 interest therein to be disposed of in any fashion by the
13 authority.

14 Section 26. An authority shall be considered an
15 awarding authority within the meaning of Title 39, Code of
16 Alabama 1975, as amended or replaced, and shall comply with
17 all public works bid laws and other requirements applicable to
18 an awarding authority.

19 Section 27. An authority shall be subject to the
20 Open Meetings Act at Chapter 24 of Title 36 of the Code of
21 Alabama 1975, as amended or replaced, and all public records
22 requirements of the state, including Title 12 of Chapter 36 of
23 the Code of Alabama 1975, as amended or replaced.

24 Section 28. Notwithstanding any other provisions of
25 this act, the members of an authority's board of directors,
26 all employees, and any contracts entered into by an authority
27 and any personnel hired for issuance of bonds by an authority

1 shall reflect the racial, gender, geographic, urban/rural, and
2 economic diversity of the state.

3 Section 29. Act 2009-_____, House Bill 590 of the
4 2009 Regular Session, is repealed upon the effective date of
5 this act.

6 Section 30. The provisions of this act are
7 severable. If any part of this act is declared invalid or
8 unconstitutional, that declaration shall not affect the part
9 which remains.

10 Section 31. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.